

## House Resolution 2

By: Representatives Levitas of the 82<sup>nd</sup>, Lunsford of the 110<sup>th</sup>, Wilkinson of the 52<sup>nd</sup>, Jerguson of the 22<sup>nd</sup>, Bearden of the 68<sup>th</sup>, and others

## A RESOLUTION

Proposing an amendment to the Constitution so as to provide for base-value exemptions from ad valorem taxes for county, municipal, or county or independent school district purposes for homestead and nonhomestead property in an amount equal to the amount by which the current-year assessed value of the property exceeds the base value of such property in any local taxing jurisdictions in which such exemptions are approved in a referendum; to provide for a short title; to provide for definitions; to specify the terms and conditions of the exemptions and procedures relating thereto; to provide for applicability; to require voter approval of changes in the maximum millage rate for school district ad valorem taxes; to provide for the submission of this amendment for ratification or rejection; and for other purposes.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

This Resolution shall be known and may be cited as the "Bringing Equity Statewide to Taxation Amendment."

**SECTION 2.**

Article VII, Section II of the Constitution is amended by adding a new Paragraph to read as follows:

"Paragraph VI. *Base-value exemptions for homestead and nonhomestead property.* (a)

For purposes of this Paragraph, the term:

(1) 'Appraisal,' 'appraisal report,' 'appraiser,' or 'appraiser classification' shall have the same meaning as those terms are defined by general law relating to appraiser licensing.

(2) 'Appraisal valuation' means an estimate by an appraiser of applicable appraiser classification of the value of real estate or real property based on an appraisal.

(3) 'Base value' of a homestead means the purchase price of the homestead property paid by the most recent owner of such homestead; provided, however, that if the purchase price of the homestead cannot be determined pursuant to subparagraph (c) of this

Paragraph, then 'base value' shall mean the assessed value of the homestead, as determined pursuant to subparagraph (d) of this Paragraph. 'Base value' of nonhomestead property means the 2002 assessed value of the nonhomestead property on January 1, 2011; provided, however, that for any sale, exchange, or other transfer of nonhomestead property after January 1, 2011, 'base value' shall mean the purchase price of the nonhomestead property, except that if the purchase price of the nonhomestead property cannot be determined pursuant to subparagraph (c) of this Paragraph, then 'base value' shall be determined pursuant to subparagraph (d) of this Paragraph.

(4) 'County ad valorem taxes' means all ad valorem taxes for county purposes levied by, for, or on behalf of a county, including, but not limited to, taxes to pay interest on and to retire county bonded indebtedness.

(5) 'Fair market value' means the compensation that a knowledgeable buyer would pay for a homestead property or nonhomestead property and a willing seller would accept for the homestead property or nonhomestead property at an arm's length, bona fide sale of such homestead or nonhomestead property.

(6) 'Homestead' means the homestead as defined and qualified by general law for other general law homestead exemptions, with the additional qualification that it shall include not more than five contiguous acres of homestead property.

(7) 'Immediate family member' means the spouse, child, stepchild, child's spouse, stepchild's spouse, grandchild, stepgrandchild, grandchild's spouse, stepgrandchild's spouse, parent, stepparent, parent-in-law, sibling-in-law, niece, nephew, stepparent-in-law, sibling, or stepsibling of the seller.

(8) 'Local taxing jurisdiction's appraisal valuation' or 'local taxing jurisdiction's valuation' means an appraisal valuation or valuation obtained by a county, municipality, or county or independent school district pursuant to this Paragraph.

(9) 'Municipal ad valorem taxes' means all ad valorem taxes for municipal purposes levied by, for, or on behalf of a municipality, including, but not limited to, taxes to pay interest on and to retire municipal bonded indebtedness.

(10) 'Nonhomestead property' means any business or commercial real property or other real property which does not qualify as a homestead.

(11) 'Purchase price' means the amount of total compensation that a buyer pays to acquire a homestead or nonhomestead property from a willing seller in an arm's length, bona fide sale of such homestead or nonhomestead property. The term 'total compensation' shall include, without limitation, any in-kind transfer, land transfer, or other transfer or exchange of a thing of value given, directly or indirectly, to acquire such homestead property or nonhomestead property.

(12) 'School district ad valorem taxes' means all ad valorem taxes for educational purposes levied by, for, or on behalf of a county or independent school district, including, but not limited to, taxes to pay interest on and to retire school district bonded indebtedness.

(13) 'Taxpayer' means a person or entity subject to county, municipal, or school district ad valorem taxes for real property owned by the person or entity as a homestead or as nonhomestead property.

(14) 'Taxpayer's appraisal valuation' or 'taxpayer's valuation' means an appraisal valuation or valuation obtained by a taxpayer pursuant to this Paragraph.

(b)(1) Each taxpayer is granted an exemption on that taxpayer's homestead and nonhomestead property from all county ad valorem taxes, municipal ad valorem taxes, or school district ad valorem taxes in an amount equal to the amount by which the current-year assessed value of that homestead or nonhomestead property exceeds the base value of that homestead or nonhomestead property.

(2) This exemption shall not apply to taxes assessed on improvements to such homestead or nonhomestead property or to additional land that is added to such homestead or nonhomestead property after January 1 of the base year. If any real property is removed from such homestead or nonhomestead property, then the base value shall be adjusted by the county tax commissioner or the municipal tax official, as appropriate, to reflect such removal, and any exemption shall be recalculated accordingly. The value of that property in excess of such exempted amount shall remain subject to taxation; provided, however, that the excess amount as determined by the tax commissioner or the municipal tax official, as appropriate, shall be subject to the provisions of subparagraph (d) of this Paragraph.

(c)(1) A taxpayer shall not receive an exemption granted by this Paragraph unless such taxpayer or taxpayer's agent files an application with the tax commissioner of the county or the municipal tax official, as appropriate, giving such information relative to receiving such exemption as will enable the tax commissioner or the municipal tax official, as appropriate, to make a determination regarding the correctness of the base value and the initial and continuing eligibility of such taxpayer for such exemption. The tax commissioner of the county or the municipal tax official, as appropriate, shall provide application forms for this purpose.

(2) In order for a taxpayer to receive a base value in the amount of the purchase price of homestead or nonhomestead property, the taxpayer shall provide to the tax commissioner or the municipal tax official, as appropriate, copies of the closing documents regarding the sale of the property or other proof which, in the objective judgment of the tax commissioner or the municipal tax official, as appropriate, is

100 sufficient to validate such purchase price. The General Assembly shall be authorized to  
101 provide by general law for additional items of proof which shall be sufficient to establish  
102 the purchase price for purposes of this subparagraph.

103 (d) For purposes of determining valuation pursuant to this subparagraph and  
104 subparagraphs (b)(2), (e), and (f) of this Paragraph, the local taxing jurisdiction shall obtain  
105 an appraisal valuation and shall provide such appraisal valuation to the taxpayer in a  
106 written appraisal report documenting the fair market value of the property, subject to the  
107 following conditions:

108 (1) If the taxpayer disagrees with the local taxing jurisdiction's appraisal valuation, then  
109 the taxpayer, within 45 days of receipt of the local taxing jurisdiction's appraisal report,  
110 may obtain a separate appraisal valuation; otherwise, the local taxing jurisdiction's  
111 appraisal valuation shall become the valuation of the homestead or nonhomestead  
112 property for purposes of this Paragraph;

113 (2) If the taxpayer obtains an appraisal valuation under this subparagraph within 45  
114 days of receipt of the local taxing jurisdiction's appraisal report and if the difference  
115 between the taxpayer's appraisal valuation and the local taxing jurisdiction's appraisal  
116 valuation is 20 percent or less, then the valuation of such property for the purpose of any  
117 exemption granted by this Paragraph shall be the taxpayer's appraisal valuation; provided,  
118 however, that before the taxpayer's appraisal valuation shall become effective, the  
119 taxpayer shall provide the taxpayer's appraisal valuation to the appropriate local taxing  
120 jurisdiction via certified mail, return receipt requested, via priority mail, delivery  
121 confirmation requested, or via statutory overnight delivery; and

122 (3) If the difference between the taxpayer's appraisal valuation and the local taxing  
123 jurisdiction's appraisal valuation exceeds 20 percent and if the local taxing jurisdiction  
124 does not agree to the valuation determined by the taxpayer's appraisal valuation, then the  
125 local taxing jurisdiction and taxpayer shall agree to an arbitrator or shall apply to the  
126 superior court of the county, on a form approved by the clerk of the court, to appoint an  
127 arbitrator. The cost of the application shall be borne by the local taxing jurisdiction,  
128 which cost the General Assembly is authorized to establish by general law but which  
129 shall otherwise be established by the clerk of the superior court of each county. Unless  
130 the General Assembly shall provide by general law otherwise, such cost shall not exceed  
131 \$50.00. The arbitrator shall be appointed by the court to select which of the two appraisal  
132 valuations is closer to the fair market value of the homestead or nonhomestead property,  
133 and the closer appraisal valuation shall become the valuation of the homestead or  
134 nonhomestead property for purposes of this Paragraph. The cost for the service of the  
135 arbitrator shall be borne equally by the taxpayer and by the local taxing jurisdiction.

(e) At any time after the taxpayer's initial base value is determined pursuant to this Paragraph, a taxpayer may seek a new determination of value of the homestead or nonhomestead property. In such case, the taxpayer shall obtain an appraisal valuation and shall provide such appraisal valuation to the local taxing jurisdiction in a written appraisal report documenting the fair market value of the property, subject to the following conditions:

(1) If the taxing jurisdiction disagrees with the taxpayer's appraisal valuation, then the taxing jurisdiction, within 45 days of receipt of the taxpayer's appraisal report, may obtain a separate appraisal valuation; otherwise, the taxpayer's appraisal valuation shall become the valuation of the homestead or nonhomestead property for purposes of this Paragraph;

(2) If the taxing jurisdiction obtains an appraisal valuation under this subparagraph within 45 days of receipt of the taxpayer's appraisal report and if the difference between the taxpayer's appraisal valuation and the local taxing jurisdiction's appraisal valuation is 20 percent or less, then the valuation of such property for the purpose of any exemption granted by this Paragraph shall be the taxpayer's appraisal valuation; provided, however, that before the taxpayer's appraisal valuation shall become effective, the taxpayer shall provide the taxpayer's appraisal valuation to the appropriate local taxing jurisdiction via certified mail, return receipt requested, via priority mail, delivery confirmation requested, or via statutory overnight delivery; and

(3) If the difference between the taxpayer's appraisal valuation and the local taxing jurisdiction's appraisal valuation exceeds 20 percent and if the local taxing jurisdiction does not agree to the valuation determined by the taxpayer's appraisal valuation, then the local taxing jurisdiction and taxpayer shall agree to an arbitrator or shall apply to the superior court of the county, on a form approved by the clerk of the court, to appoint an arbitrator. The cost of the application shall be borne by the local taxing jurisdiction, which cost the General Assembly is authorized to establish by general law but which shall otherwise be established by the clerk of the superior court of each county. Unless the General Assembly shall provide by general law otherwise, such cost shall not exceed \$50.00. The arbitrator shall be appointed by the court to select which of the two appraisal valuations is closer to the fair market value of the homestead or nonhomestead property, and the closer appraisal valuation shall become the valuation of the homestead or nonhomestead property for purposes of this Paragraph. The cost for the service of the arbitrator shall be borne equally by the taxpayer and by the local taxing jurisdiction.

(f) Any exemption granted under this Paragraph shall be contingent upon the purchase being a bona fide, arm's length transaction. The local taxing jurisdiction shall be permitted to challenge whether a purchase of a homestead or nonhomestead property was a bona fide, arm's length transaction under the following conditions:

(1) Where the purchase was made, directly or indirectly, by a person or by an entity controlled by such person or in which such person has a 20 percent or greater interest in the purchasing entity, which person is an immediate family member of the seller or, in the case of a seller that is an entity, by a person who is an immediate family member of a person who controls or who has a 20 percent or greater ownership interest in the selling entity;

(2) Where the purchase was made for less than 75 percent of fair market value; or

(3) Where a taxpayer purchases or otherwise acquires a homestead or nonhomestead property as the result of a foreclosure.

(g) A taxpayer obtaining a homestead or nonhomestead property through bequest, inheritance, foreclosure, or in-kind transfer shall obtain an appraisal of the homestead or nonhomestead property for purposes of establishing valuation for purposes of this Paragraph. If the local taxing jurisdiction disagrees with the appraisal valuation obtained by the taxpayer, then the local taxing jurisdiction may seek its own appraisal valuation pursuant to the provisions of subparagraph (d) of this Paragraph.

(h) When, after purchasing a homestead or nonhomestead property, a taxpayer borrows money or is otherwise extended credit at such taxpayer's request based on the value of such homestead or nonhomestead property, which value exceeds the base value, as adjusted by any applicable subparagraphs of this Paragraph, the higher valuation shall become the value of the homestead or nonhomestead property for purposes of this Paragraph.

(i) Any exemption shall be claimed and returned as provided by general law for other homestead and nonhomestead property exemptions, as applicable. The homestead exemption shall be automatically renewed from year to year so long as the taxpayer granted the homestead exemption under this Paragraph occupies the residence as a homestead. The nonhomestead property exemption shall be automatically renewed from year to year so long as the taxpayer granted the nonhomestead property exemption under this Paragraph directly owns the nonhomestead property. After the taxpayer has filed the proper application as provided in this Paragraph, it shall not be necessary to make application thereafter for any year, and the exemption shall continue to be allowed to such taxpayer, provided that such taxpayer is otherwise eligible to receive the exemption. It shall be the duty of any taxpayer granted the homestead exemption or nonhomestead property exemption under this Paragraph to notify the tax commissioner of the county or the municipal tax official, as appropriate, in the event that such taxpayer for any reason becomes ineligible for that exemption.

(j)(1) The homestead or nonhomestead property exemption granted by this Paragraph shall not apply to or affect:

(A) Any state ad valorem taxes;

(B) Any other ad valorem tax exemption for county taxes for county purposes provided for under this Constitution or by general or local law; or

(C) Any property receiving preferential assessment under subparagraph (c) or (e) of Paragraph III of Section I of this Article as long as such property remains subject to the appropriate covenant.

(2) An exemption granted by this Paragraph shall be in addition to and not in lieu of any other ad valorem tax exemption.

(k) The exemptions granted by this Paragraph shall apply to all taxable years beginning on or after January 1 of the following the year in which the referendum required under subparagraph (l) of this Paragraph is approved in the appropriate local taxing jurisdiction.

(l) An exemption granted under this Paragraph shall only be implemented in a local taxing jurisdiction following approval by a majority of the qualified electors residing within the limits of the local taxing jurisdiction voting in a referendum thereon as follows:

(1) Unless a special election is called and conducted in a local taxing jurisdiction sooner, pursuant to subparagraph (1)(2) of this Paragraph, the election superintendent of each local taxing jurisdiction shall call and conduct an election as provided in this subparagraph for the purpose of submitting the exemptions to the electors of the local taxing jurisdiction for approval or rejection. In each local taxing jurisdiction in which an election has not been conducted sooner under subparagraph (1)(2) of this Paragraph, each election superintendent shall conduct that election on the date of the 2012 state-wide general election and shall issue the call and conduct that election as provided by general law. Each election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of the county. The ballot shall have written or printed thereon the words:

'( ) YES Shall the base-value exemptions from ad valorem taxes for county, municipal, or county or independent school district purposes for a  
( ) NO homestead and nonhomestead property in an amount equal to the amount  
by which the current-year assessed value of the property exceeds the base  
value of such property, effectively freezing such taxes, be approved?'

All persons desiring to vote for approval of the exemptions shall vote 'Yes,' and all persons desiring to vote for rejection shall vote 'No.' If more than one-half of the votes cast on such question are for approval of the exemptions, the exemptions shall become of full force and effect in that local taxing jurisdiction on January 1, 2013. If the exemptions are not so approved, they shall not become effective in that local taxing jurisdiction. The expense of the election shall be borne by the local taxing jurisdiction. It shall be the election superintendent's duty to certify the result thereof to the Secretary of State.

(2) The General Assembly shall be authorized to provide by local law that the special election required in a local taxing jurisdiction under subparagraph (l)(1) of this Paragraph may be conducted sooner than the 2012 state-wide general election on any date authorized by general law for the holding of a special election. In such event, the election superintendent shall follow the procedures specified in subparagraph (l)(1) of this Paragraph. If such vote is for approval of the exemptions, they shall become effective on January 1 of the year following the year in which such referendum was conducted.

(3) In the event such referendum has been conducted and such referendum was not approved, the General Assembly shall be authorized by local law to resubmit the question of authorizing such exemptions. In such event, the election superintendent shall follow the procedures specified in subparagraph (l)(1) of this Paragraph. If such vote is for approval of the exemptions, they shall become effective on January 1 of the year following the year in which such referendum was conducted.

(m)(1) The General Assembly shall be authorized to discontinue any exemption granted under this Paragraph by local law conditioned upon approval by a majority of the qualified electors residing within the limits of the local taxing jurisdiction voting in a referendum thereon.

(2) In the event such referendum has been conducted and such referendum was approved, the General Assembly shall be authorized by local law to submit the question of reauthorizing such exemptions. In such event, the election superintendent shall follow the procedures specified in subparagraph (l)(1) of this Paragraph. If such vote is for approval of the exemptions, they shall become effective on January 1 of the year following the year in which such referendum was conducted.

(n) In the event a taxing jurisdiction is created after January 1, 2013, the General Assembly shall be authorized by local law to submit the question of approving such exemption. In such event, the election superintendent shall follow the procedures specified in subparagraph (l)(1) of this Paragraph. If such vote is for approval of the exemption, it shall become effective on January 1 of the year following the year in which such referendum was conducted."

### SECTION 3.

Article VIII, Section VI of the Constitution is amended by revising Paragraphs I and II as follows:

"Paragraph I. ***Local taxation for education.*** (a) The board of education of each school system shall annually certify to its fiscal authority or ~~authorities~~ authorities the necessary school tax ~~not greater than 20 mills per dollar~~ for the support and maintenance of education. Said fiscal authority or authorities shall annually levy said tax upon the assessed



value of all taxable property within the territory served by said school system, ~~provided that the levy made by an area board of education, which levy shall not be greater than 20 mills per dollar, shall be in such amount and within such limits as may be prescribed by local law applicable thereto.~~

(b) School tax funds shall be expended only for the support and maintenance of public schools, public ~~vocational-technical schools~~ technical colleges, public education, and activities necessary or incidental thereto, including school lunch purposes.

(c) ~~The 20 mill limitation provided for in subparagraph (a) of this Paragraph shall not apply to those school systems which are authorized on June 30, 1983, to levy a school tax in excess thereof.~~

(d) The method of certification and levy of the school tax provided for in subparagraph (a) of this Paragraph shall not apply to those systems that are authorized on June 30, 1983, to utilize a different method of certification and levy of such tax; but the General Assembly may by law require that such systems be brought into conformity with the method of certification and levy herein provided.

Paragraph II. ~~*Increasing or removing tax rate*~~ *Change in limitation.* The mill limitation in effect on ~~June 30, 1983~~ January 1, 2011, for any school system may be ~~increased or removed~~ changed by action of the respective boards of education, but only after such action has been approved by a majority of the qualified voters voting thereon in the particular school system to be affected in the manner provided for by the particular school system to be affected or in the manner provided by law."

#### SECTION 4.

The above proposed amendment to the Constitution shall be published and submitted as provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the above proposed amendment shall have written or printed thereon the following:

"( ) YES Shall the Constitution of Georgia be amended so as to authorize base-value exemptions from ad valorem taxes for county, municipal, or county or independent school district purposes for homestead and nonhomestead property in an amount equal to the amount by which the current-year assessed value of the property exceeds the base value of such property, effectively freezing such taxes, in any local taxing jurisdiction in which such exemptions are approved in a local referendum and to require voter approval of changes in the maximum millage rate for school district ad valorem taxes?"

All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."

All persons desiring to vote against ratifying the proposed amendment shall vote "No." If

319 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall  
320 become a part of the Constitution of this state.